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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/871,441	05/31/2001	Steven J. Rychnovsky	17858/120103	8892	
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Roxana Wizorek Bryan Cave LLP 211 North Broadway, Suite 3600			EXAMINER		
			HENLEY III, RAYMOND J		
St. Louis, MO 63102			ART UNIT	PAPER NUMBER	
			1614	9	
			DATE MAIL ED. 05/00/2002	DATE MAIL ED. 05/00/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Me

Application No. 09/871,441

tion No. Applicant(s)

Steven J. Rychnovsky

Examiner

Ray Henley

1614



1) Responsive to communication(s) filled on February 20, 2003 and March 11, 2002 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-55 and 57-60	•	The MAILING DATE of this communication appears	on the cover sh	eet with	the correspondence address
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Claim(s)	5) 🗆	Claim(s)			is/are allowed.
Claims	6) 💢				is/are rejected.
Application Papers 9)	7) 🗌	Claim(s)			is/are objected to.
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Office Action Summary

Application/Control Number: 09/871,441

Art Unit: 1614

CLAIMS 1-55 AND 57-60 ARE PRESENTED FOR EXAMINATION

Applicant's Information Disclosure Statement filed February 20, 2003 and Amendment/Rule 131 Declaration filed March 11, 2003 have been received and entered into the application. Accordingly, the specification and claims have been amended as directed, claim 56 has been canceled and claims 58-60 have been added. Also, as reflected by the attached, completed copy of form PTO-1449, the cited references have been considered.

In light of the Rule 131 Declaration, the Examiner's reliance upon the Allison reference is withdrawn. Also, in light of applicant's arguments, the Examiner's reliance upon the Robinson et al. reference is also withdrawn.

Claim Rejection - 35 USC § 103

Claims 1-56 and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamuraglia (WO 01/24825 A2), already of record, for the reasons of record as set forth in the previous Office action dated September 4, 2002, as applied to claims 1-57.

Applicant's arguments at page 13 of the amendment have been carefully considered, but fail to persuade the Examiner of error in his determination of obviousness.

In particular, applicant has argued that Lamuraglia teaches the use of 660 nm - 690 nm wavelengths while in the present invention, wavelengths in the 390 to 610 nm are utilized and thus the present invention is not taught or suggested by Lamuraglia.

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However, the Examiner finds in both applicant's claims and the reference the term "about" which provides the Examiner a basis for maintaining the present rejection. In particular, no clear distinction can be seen by the Examiner between the lower range of Lamuraglia of "about 660 nm" (Lamuraglia at page 2, line 32) and applicant's claimed upper range of "about 610 nm".

Accordingly, for the above reasons, the claims are deemed to remain properly rejected and none of the claims are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1614

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ray Henley whose telephone number is (703) 308-4652.

Henley; rjh May 8, 2003 RAYMOND HENLEY, III PRIMARY EXAMINER GROUP 1200